United Nations A/59/770

General Assembly

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Fifty-ninth session
Agenda item 126

Financing of the United Nations Peacekeeping Force in Cyprus

Report of the Fifth Committee

Rapporteur: Mrs. Denisa **Hutanova** (Slovakia)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the item entitled "Financing of the United Nations Peacekeeping Force in Cyprus" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 37th and 43rd meetings, on 16 March and 6 April 2005. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/59/SR.37 and 43).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Note by the Secretary-General on the financing arrangements for the United Nations Peacekeeping Force in Cyprus for the period from 1 July 2004 to 30 June 2005 (A/59/718);

(b) Related report of the Advisory Committee on Administrative and Budgetary Questions (A/59/734).

II. Consideration of draft resolution A/C.5/59/L.39

4. At its 43rd meeting, on 6 April, the Committee had before it a draft resolution entitled "Financing of the United Nations Peacekeeping Force in Cyprus" (A/C.5/59/L.39), which was submitted by the Chairman of the Committee on the basis of informal consultations coordinated by the representative of Malawi.

05-30010 (E) 080405

5. At the same meeting, the Committee adopted draft resolution A/C.5/59/L.39 without a vote (see para. 7).

6. Also at the same meeting, after the adoption of the draft resolution, the representative of Argentina made a statement (see A/C.5/59/SR.43).

III. Recommendation of the Fifth Committee

7. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the United Nations Peacekeeping Force in Cyprus

The General Assembly,

Having considered the note by the Secretary-General on the financing arrangements for the United Nations Peacekeeping Force in Cyprus[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling Security Council resolution 186 (1964) of 4 March 1964, regarding the establishment of the United Nations Peacekeeping Force in Cyprus, and the subsequent resolutions by which the Council extended the mandate of the Force, the latest of which was resolution 1568 (2004) of 22 October 2004,

Recalling also its resolution 47/236 of 14 September 1993 on the financing of the Force for the period beginning 16 June 1993 and its subsequent resolutions and decisions thereon, the latest of which was resolution 58/301 of 18 June 2004,

Reaffirming the general principles underlying the financing of United Nations peacekeeping operations as stated in General Assembly resolutions 1874 (S-IV) of 27 June 1963, 3101 (XXVIII) of 11 December 1973 and 55/235 of 23 December 2000,

Noting with appreciation that voluntary contributions have been made to the Force by certain Governments,

Noting that voluntary contributions were insufficient to cover all the costs of the Force, including those incurred by troop-contributing Governments prior to 16 June 1993, and regretting the absence of an adequate response to appeals for voluntary contributions, including that contained in the letter dated 17 May 1994 from the Secretary-General to all Member States,[3]

Mindful of the fact that it is essential to provide the Force with the necessary financial resources to enable it to fulfil its responsibilities under the relevant resolutions of the Security Council,

1. *Takes note* of the note by the Secretary-General on the financing arrangements for the United Nations Peacekeeping Force in Cyprus[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions;[2]

2. *Takes note* of the status of contributions to the United Nations Peacekeeping Force in Cyprus as at 28 February 2005, including the contributions outstanding in the amount of 24.1 million United States dollars, representing some 10 per cent of the total assessed contributions, notes with concern that only forty-one Member States have paid their assessed contributions in full, and urges all other Member States, in particular those in arrears, to ensure payment of their outstanding assessed contributions;

[1] A/59/718.
[2] A/59/734.
[3] S/1994/647.

3. *Expresses its appreciation* to those Member States which have paid their assessed contributions in full, and urges all other Member States to make every possible effort to ensure payment of their assessed contributions to the Force in full;

4. *Expresses concern* at the financial situation with regard to peacekeeping activities, in particular as regards the reimbursements to troop contributors that bear additional burdens owing to overdue payments by Member States of their assessments;

5. *Also expresses concern* at the delay experienced by the Secretary-General in deploying and providing adequate resources to some recent peacekeeping missions, in particular those in Africa;

6. *Emphasizes* that all future and existing peacekeeping missions shall be given equal and non-discriminatory treatment in respect of financial and administrative arrangements;

7. *Also emphasizes* that all peacekeeping missions shall be provided with adequate resources for the effective and efficient discharge of their respective mandates;

8. *Reiterates its request* to the Secretary-General to make the fullest possible use of facilities and equipment at the United Nations Logistics Base at Brindisi, Italy, in order to minimize the costs of procurement for the Force;

9. *Endorses* the observations and recommendations of the Advisory Committee on Administrative and Budgetary Questions,[2] and requests the Secretary-General to ensure their full implementation;

10. *Requests* the Secretary-General to expedite negotiations with the host Government on issues surrounding the relocation of military contingent personnel as well as other personnel of the United Nations Peacekeeping Force in Cyprus, in accordance with the provisions of the March 1964 Agreement between the United Nations and the Government of Cyprus;

11. *Also requests* the Secretary-General to take all necessary action to ensure that the Force is administered with a maximum of efficiency and economy;

12. *Further requests* the Secretary-General, in order to reduce the cost of employing General Service staff, to continue efforts to recruit local staff for the Force against General Service posts, commensurate with the requirements of the Force;

13. *Decides* to continue to maintain as separate the account established for the Force for the period prior to 16 June 1993, invites Member States to make voluntary contributions to that account, and requests the Secretary-General to continue his efforts in appealing for voluntary contributions to the account;

14. *Emphasizes* that no peacekeeping mission shall be financed by borrowing funds from other active peacekeeping missions;

15. *Encourages* the Secretary-General to continue to take additional measures to ensure the safety and security of all personnel under the auspices of the United Nations participating in the Force;

16. *Invites* voluntary contributions to the Force in cash and in the form of services and supplies acceptable to the Secretary-General, to be administered, as appropriate, in accordance with the procedure and practices established by the General Assembly;

17. *Decides* to keep under review during its fifty-ninth session the item entitled "Financing of the United Nations Peacekeeping Force in Cyprus".

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Fifty-ninth session
Agenda item 127

Financing of the United Nations Organization Mission in the Democratic Republic of the Congo

Report of the Fifth Committee

Rapporteur: Mrs. Denisa **Hutanova** (Slovakia)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the item entitled "Financing of the United Nations Organization Mission in the Democratic Republic of the Congo" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 40th and 43rd meetings, on 24 March and 6 April 2005. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/59/SR.40 and 43).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the revised budget for the United Nations Organization Mission in the Democratic Republic of the Congo for the period from 1 July 2004 to 30 June 2005 (A/59/707);

(b) Related report of the Advisory Committee on Administrative and Budgetary Questions (A/59/735).

II. Consideration of draft resolution A/C.5/59/L.41

4. At its 43rd meeting, on 6 April, the Committee had before it a draft resolution entitled "Financing of the United Nations Organization Mission in the Democratic Republic of the Congo" (A/C.5/59/L.41), which was submitted by the Chairman on the basis of informal consultations coordinated by the representative of Australia.

05-30028 (E) 080405

5. At the same meeting, before the adoption of the draft resolution, the Chairman of the Committee made a statement.

6. Also at the same meeting, the Committee adopted draft resolution A/C.5/59/L.41 without a vote (see para. 8).

7. At the same meeting, after the adoption of the draft resolution, the representative of Nigeria made a statement on behalf of the States Members of the United Nations that are members of the African Group.

III. Recommendation of the Fifth Committee

8. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the United Nations Organization Mission in the Democratic Republic of the Congo

The General Assembly,

Having considered the report of the Secretary-General on the financing of the United Nations Organization Mission in the Democratic Republic of the Congo[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling Security Council resolutions 1258 (1999) of 6 August 1999 and 1279 (1999) of 30 November 1999 regarding, respectively, the deployment to the Congo region of military liaison personnel and the establishment of the United Nations Organization Mission in the Democratic Republic of the Congo, and the subsequent resolutions by which the Council extended the mandate of the Mission, the latest of which was resolution 1565 (2004) of 1 October 2004, by which the Council authorized an increase in the Mission's strength by 5,900 personnel, including up to 341 civilian police,

Recalling also its resolution 54/260 A of 7 April 2000 on the financing of the Mission and its subsequent resolutions thereon, the latest of which was resolution 58/259 B of 18 June 2004,

Reaffirming the general principles underlying the financing of United Nations peacekeeping operations, as stated in General Assembly resolutions 1874 (S-IV) of 27 June 1963, 3101 (XXVIII) of 11 December 1973 and 55/235 of 23 December 2000,

Noting with appreciation that voluntary contributions have been made to the Mission,

Mindful of the fact that it is essential to provide the Mission with the financial resources necessary to enable it to fulfil its responsibilities under the relevant resolutions of the Security Council,

1. *Takes note* of the status of contributions to the United Nations Organization Mission in the Democratic Republic of the Congo as at 15 March 2005, including the contributions outstanding in the amount of 309.4 million United States dollars, representing some 13 per cent of the total assessed contributions, notes with concern that only forty-five Member States have paid their assessed contributions in full, and urges all other Member States, in particular those in arrears, to ensure payment of their outstanding assessed contributions;

[1] A/59/707.
[2] A/59/735.

2. *Expresses its appreciation* to those Member States which have paid their assessed contributions in full, and urges all other Member States to make every possible effort to ensure payment of their assessed contributions to the Mission in full;

3. *Expresses concern* at the financial situation with regard to peacekeeping activities, in particular as regards the reimbursement of troop contributors, which bear additional burdens owing to overdue payments by Member States of their assessments;

4. *Also expresses concern* at the delay experienced by the Secretary-General in deploying and providing adequate resources to some recent peacekeeping missions, in particular those in Africa;

5. *Emphasizes* that all future and existing peacekeeping missions shall be given equal and non-discriminatory treatment in respect of financial and administrative arrangements;

6. *Also emphasizes* that all peacekeeping missions shall be provided with adequate resources for the effective and efficient discharge of their respective mandates;

7. *Reiterates its request* to the Secretary-General to make the fullest possible use of facilities and equipment at the United Nations Logistics Base at Brindisi, Italy, in order to minimize the costs of procurement for the Mission;

8. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions[1] and requests the Secretary-General to ensure their full implementation;

9. *Requests* the Secretary-General to include in the proposed budget for the period from 1 July 2005 to 30 June 2006 the resources necessary to ensure the integration of gender perspectives into the entire electoral process;

10. *Also requests* the Secretary-General to take all action necessary to ensure that the Mission is administered with a maximum of efficiency and economy, particularly with regard to air transport;

11. *Further requests* the Secretary-General, in order to reduce the cost of employing General Service staff, to continue efforts to recruit local staff for the Mission against General Service posts, commensurate with the requirements of the Mission;

Revised budget estimates for the period from 1 July 2004 to 30 June 2005

12. *Decides* to appropriate to the Special Account for the United Nations Organization Mission in the Democratic Republic of the Congo the additional amount of 245,642,900 dollars for the maintenance of the Mission for the period from 1 October 2004 to 30 June 2005, inclusive of the amount of 49,950,000 dollars previously authorized by the Advisory Committee on Administrative and Budgetary Questions under the terms of section IV of General Assembly resolution 49/233 A of 23 December 1994, taking into account the total amount of 746,072,500 dollars already appropriated and apportioned for the period from 1 July 2004 to 30 June 2005 under the provisions of its resolution 58/259 B;

Financing of the appropriation

13. *Decides* to apportion among Member States the additional amount of 163,761,932 dollars for the period from 1 October 2004 to 31 March 2005, in accordance with the levels set out in General Assembly resolution 55/235, as adjusted by the Assembly in its resolution 55/236 of 23 December 2000 and updated in its resolution 58/256 of 23 December 2003, and taking into account the scale of assessments for 2004 and 2005, as set out in its resolution 58/1 B of 23 December 2003;

14. *Also decides* to apportion among Member States the additional amount of 81,880,968 dollars at a monthly rate of 27,293,656 dollars for the period from 1 April to 30 June 2005, in accordance with the scheme set out in paragraph 13 above and taking into account the scale of assessments for 2005, as set out in General Assembly resolution 58/1 B, subject to the decision of the Security Council to extend the mandate of the Mission;

15. *Emphasizes* that no peacekeeping mission shall be financed by borrowing funds from other active peacekeeping missions;

16. *Encourages* the Secretary-General to continue to take additional measures to ensure the safety and security of all personnel under the auspices of the United Nations participating in the Mission;

17. *Invites* voluntary contributions to the Mission in cash and in the form of services and supplies acceptable to the Secretary-General, to be administered, as appropriate, in accordance with the procedure and practices established by the General Assembly;

18. *Decides* to keep under review during its fifty-ninth session the item entitled "Financing of the United Nations Organization Mission in the Democratic Republic of the Congo".

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Agenda item 133

Financing of the United Nations Interim Administration Mission in Kosovo

Report of the Fifth Committee

Rapporteur: Mrs. Denisa **Hutanova** (Slovakia)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the item entitled "Financing of the United Nations Interim Administration Mission in Kosovo" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 37th and 43rd meetings, on 16 March and 6 April 2005. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/59/SR.37 and 43).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Note by the Secretary-General on the financing arrangements for the United Nations Interim Administration Mission in Kosovo for the period from 1 July 2004 to 30 June 2005 (A/59/692);

(b) Report of the Advisory Committee on Administrative and Budgetary Questions (A/59/728).

II. Consideration of draft resolution A/C.5/59/L.37

4. At its 43rd meeting, on 6 April, the Committee had before it a draft resolution entitled "Financing of the United Nations Interim Administration Mission in Kosovo" (A/C.5/59/L.37), which was submitted by the Chairman on the basis of informal consultations coordinated by the representative of Namibia.

05-30160 (E) 110405

5. Before the adoption of the draft resolution, the Chief of the Finance Management and Support Service of the Department of Peacekeeping Operations made a statement (see A/C.5/59/SR.43).

6. At the same meeting, the Committee adopted draft resolution A/C.5/59/L.37 without a vote (see para. 8).

7. After the adoption of the draft resolution, the representative of Venezuela made a statement (see A/C.5/59/SR.43).

III. Recommendation of the Fifth Committee

8. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the United Nations Interim Administration Mission in Kosovo

The General Assembly,

Having considered the note by the Secretary-General on the financing arrangements for the United Nations Interim Administration Mission in Kosovo for the period from 1 July 2004 to 30 June 2005[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling Security Council resolution 1244 (1999) of 10 June 1999 regarding the establishment of the United Nations Interim Administration Mission in Kosovo,

Recalling also its resolution 53/241 of 28 July 1999 on the financing of the Mission and its subsequent resolutions thereon, the latest of which was resolution 58/305 of 18 June 2004,

Acknowledging the complexity of the Mission,

Reaffirming the general principles underlying the financing of United Nations peacekeeping operations, as stated in General Assembly resolutions 1874 (S-IV) of 27 June 1963, 3101 (XXVIII) of 11 December 1973 and 55/235 of 23 December 2000,

Mindful of the fact that it is essential to provide the Mission with the necessary financial resources to enable it to fulfil its responsibilities under the relevant resolution of the Security Council,

1. *Takes note* of the status of contributions to the United Nations Interim Administration Mission in Kosovo as at 28 February 2005, including the contributions outstanding in the amount of 132.4 million United States dollars, representing some 7 per cent of the total assessed contributions, notes with concern that only sixty-eight Member States have paid their assessed contributions in full, and urges all other Member States, in particular those in arrears, to ensure payment of their outstanding assessed contributions;

2. *Expresses its appreciation* to those Member States which have paid their assessed contributions in full, and urges all other Member States to make every possible effort to ensure payment of their assessed contributions to the Mission in full;

3. *Expresses concern* at the financial situation with regard to peacekeeping activities, in particular as regards the reimbursements to troop contributors that bear additional burdens owing to overdue payments by Member States of their assessments;

4. *Also expresses concern* at the delay experienced by the Secretary-General in deploying and providing adequate resources to some recent peacekeeping missions, in particular those in Africa;

[1] A/59/692

[2] A/59/728

5. *Emphasizes* that all future and existing peacekeeping missions shall be given equal and non-discriminatory treatment in respect of financial and administrative arrangements;

6. *Also emphasizes* that all peacekeeping missions shall be provided with adequate resources for the effective and efficient discharge of their respective mandates;

7. *Reiterates its request* to the Secretary-General to make the fullest possible use of facilities and equipment at the United Nations Logistics Base at Brindisi, Italy, in order to minimize the costs of procurement for the Mission;

8. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions,[2] and requests the Secretary-General to ensure their full implementation;

9. *Requests* the Secretary-General to take all necessary action to ensure that the Mission is administered with a maximum of efficiency and economy;

10. *Also requests* the Secretary-General, in order to reduce the cost of employing General Service staff, to continue efforts to recruit local staff for the Mission against General Service posts, commensurate with the requirements of the Mission;

Revised budget estimates for the period from 1 July 2004 to 30 June 2005

11. *Decides* to appropriate to the Special Account for the United Nations Interim Administration Mission in Kosovo the additional amount of 30 million dollars for the maintenance of the Mission for the period from 1 July 2004 to 30 June 2005, taking into account the total amount of 278,413,700 dollars already appropriated for the Mission for the same period under the provisions of General Assembly resolution 58/305;

Financing of the appropriation

12. *Decides also* to apportion among Member States the amount of 30 million dollars, taking into account the amount of 278,413,700 dollars already apportioned by the General Assembly for the period from 1 July 2004 to 30 June 2005 in its resolution 58/305, in accordance with the levels set out in General Assembly resolution 55/235, as adjusted by the Assembly in its resolution 55/236 of 23 December 2000 and updated in its resolution 58/256 of 23 December 2003, the scale of assessments for 2004 to be applied against a portion thereof, that is, 15 million dollars, which is the amount pertaining to the period ended 31 December 2004, and the scale of assessments for the year 2005 to be applied against the balance, that is, 15 million dollars for the period from 1 January to 30 June 2005, as set out in its resolution 58/1 B of 23 December 2003;

13. *Decides further* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraph 12 above, their respective share in the Tax Equalization Fund of the additional amount of 3,850,800 dollars, approved for the Mission for the period from 1 July 2004 to 30 June 2005;

14. *Emphasizes* that no peacekeeping mission shall be financed by borrowing funds from other active peacekeeping missions;

15. *Encourages* the Secretary-General to continue to take additional measures to ensure the safety and security of all personnel under the auspices of the United Nations participating in the Mission;

16. *Invites* voluntary contributions to the Mission in cash and in the form of services and supplies acceptable to the Secretary-General, to be administered, as appropriate, in accordance with the procedure and practices established by the General Assembly;

17. *Decides* to keep under review during its fifty-ninth session the item entitled "Financing of the United Nations Interim Administration Mission in Kosovo".

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Fifty-ninth session
Agenda items 108 and 120

Programme budget for the biennium 2004-2005

Administration of justice at the United Nations

Report of the Fifth Committee

Rapporteur: Mrs. Denisa **Hutanova** (Slovakia)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the items entitled "Programme budget for the biennium 2004-2005" and "Administration of justice at the United Nations" and to allocate them to the Fifth Committee.

2. The Fifth Committee considered the item entitled "Administration of justice at the United Nations" at its 27th, 28th and 36th meetings, on 24 and 29 November 2004 and 9 March 2005. The Committee also considered both items at its 42nd and 43rd meetings, held on 1 and 6 April 2005. Statements and observations made in the course of the Committee's consideration of the items are reflected in the relevant summary records (A/C.5/59/SR.27, 28, 36, 42 and 43).

3. For its consideration of the items, the Committee had before it the following documents:

(a) Report of the Secretary-General on the administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2001 and 2002 (A/58/300);

(b) Report of the Secretary-General on the administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2002 and 2003 (A/59/70);

(c) Report of the Secretary-General on the possibility of the financial independence of the United Nations Administrative Tribunal from the Office of Legal Affairs (A/59/78);

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(d) Report of the Secretary-General on measures to prevent discrimination on the basis of nationality, race, gender, religion or language in the United Nations (A/59/211);

(e) Report of the Secretary-General on the administration of justice in the Secretariat: role of the Panels on Discrimination and Other Grievances (A/59/414);

(f) Report of the Secretary-General on the administration of justice in the Secretariat (A/59/449);

(g) Notes by the Secretary-General transmitting the report of the Joint Inspection Unit entitled "Administration of justice: harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal" (A/59/280 and Corr.1) and his comments thereon (A/59/280/Add.1);

(h) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the management review of the appeals process at the United Nations (A/59/408);

(i) Report of the Secretary-General on administration of justice in the Secretariat (A/59/706);

(j) Note by the Secretary-General on compensation for officials other than Secretariat officials: members of the United Nations Administrative Tribunal (A/C.5/59/12);

(k) Interim report of the Advisory Committee on Administrative and Budgetary Questions on the administration of justice in the Secretariat (A/59/715);

(l) Comprehensive report of the United Nations Administrative Tribunal on its activities (A/58/680);

(m) Letter dated 18 November 2003 from the President of the United Nations Administrative Tribunal to the Chairman of the Fifth Committee (A/C.5/58/16).

II. Consideration of draft resolution A/C.5/59/L.46

4. At the 42nd meeting, on 1 April, the representative of the Islamic Republic of Iran and coordinator of the informal consultations on the items, introduced, on behalf of the Chairman, a draft resolution entitled "Administration of justice at the United Nations", which was subsequently issued as document A/C.5/59/L.46.

5. At the same meeting, before the consideration of the draft resolution, the Director ad interim of the Programme Planning and Budget Division and the Assistant Secretary-General for Human Resources Management made statements (see A/C.5/59/SR.42).

6. Also at the same meeting, statements were made by the representatives of Japan, the United States of America, the Russian Federation, the Syrian Arab Republic, Jamaica (on behalf of the States Members of the United Nations that are members of the Group of 77 and China), Canada, Belgium (on behalf of the States Members of the United Nations that are members of the European Union) and Nigeria (on behalf of the Group of African States) (see A/C.5/59/SR.42).

7. At the 43rd meeting, on 6 April, the representative of the Islamic Republic of Iran orally revised draft resolution A/C.5/59/L.46 by inserting, after operative paragraph 52, the following operative paragraph:

> "53. *Decides* that activities requested above that would give rise to additional resource requirements during the biennium 2004-2005 should be included in the proposed programme budget for the biennium 2006-2007".

8. Before the adoption of the draft resolution, the Director ad interim of the Programme Planning and Budget Division provided the Committee with the Secretariat's understanding of the revised draft resolution (see A/C.5/59/SR.43).

9. At the same meeting, the Committee adopted draft resolution A/C.5/59/L.46, as orally revised, without a vote (see para. 11).

10. After the adoption of the draft resolution, statements were made by the representatives of Argentina (on behalf of the States Members of the United Nations that are members of the Rio Group), India and China.

III. Recommendation of the Fifth Committee

11. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Administration of justice at the United Nations

The General Assembly,

Recalling its resolutions 57/307 of 15 April 2003 and 59/266 of 23 December 2004,

Stressing that the system of justice in the United Nations as a whole should be independent, transparent, effective, efficient and fair,

Stressing also the importance of increased transparency in decision-making and increased accountability of managers for the system,

Noting that the existing system should respect the principle of due process and provide for appropriate peer review,

Noting with concern the continuing backlog of appeals in various parts of the system,

Emphasizing the necessity of informal mechanisms for the early and swift resolution of disputes in the United Nations Secretariat, in particular through a direct dialogue between managers and staff,

Emphasizing also the importance for the United Nations to have an efficient and effective system of internal justice so as to ensure that individuals and the Organization are held accountable for their actions in accordance with relevant resolutions and regulations,

Welcoming the increased focus on training for all participants in the system of administration of justice,

Recognizing that a transparent, impartial and effective system of administration of justice is a necessary condition for ensuring fair and just treatment of United Nations staff and important for the success of human resources reform in the Organization,

Having considered the reports of the Secretary-General on the administration of justice in the Secretariat,[1] on the role of the Panels on Discrimination and Other Grievances,[2] on the outcome of the work of the Joint Appeals Board during 2001 and 2002[3] and on the outcome of the work of the Joint Appeals Board during 2002 and 2003,[4] the comprehensive report of the United Nations Administrative Tribunal on its activities,[5] the report of the Secretary-General on the possibility of the financial independence of the United Nations Administrative Tribunal from the

[1] A/59/449.
[2] A/59/414.
[3] A/58/300.
[4] A/59/70.
[5] A/58/680.

Office of Legal Affairs,[6] the report of the Secretary-General on measures to prevent discrimination on the basis of nationality, race, gender, religion or language in the United Nations,[7] the note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the management review of the appeals process at the United Nations,[8] the report of the Secretary-General containing the cost implications of the recommendations of the Office of Internal Oversight Services following its management review of the appeals process,[9] the note by the Secretary-General transmitting the report of the Joint Inspection Unit on administration of justice: harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal,[10] the note by the Secretary-General containing his comments on the report of the Joint Inspection Unit,[11] the note by the Secretary-General on compensation for officials other than Secretariat officials: members of the United Nations Administrative Tribunal,[12] the letter dated 18 November 2003 from the President of the United Nations Administrative Tribunal addressed to the Chairman of the Fifth Committee[13] and the interim report of the Advisory Committee on Administrative and Budgetary Questions,[14]

Regretting that the present system of administration of justice in the Secretariat continues to be slow, cumbersome and costly,

Regretting also that the related reports were not introduced at its fifty-eighth session, as requested in its resolution 57/307, in addition to being submitted and issued late at its fifty-ninth session,

1. *Notes* the importance of having a strong administration of justice mechanism that avoids duplication and overlap within the formal processes;

2. *Regrets* the continued serious delays in the appeals process, and stresses the need to implement measures to improve the appeals process to make it more efficient;

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Cross-cutting issues — general guidelines

3. *Takes note* of the reports of the Secretary-General;[1,2,3,4,6,7,9]

4. *Takes note with interest* of the report of the Office of Internal Oversight Services on the management review of the appeals process at the United Nations;[15]

5. *Endorses* the conclusions and recommendations of the Advisory Committee on Administrative and Budgetary Questions set out in its report,[14] subject to the provisions of the present resolution;

[6] A/59/78
[7] A/59/211
[8] A/59/408
[9] A/59/706
[10] A/59/280 and Corr.1
[11] A/59/280/Add.1
[12] A/C.5/59/12
[13] A/C.5/58/16
[14] A/59/715
[15] See A/59/408

6. *Stresses* that the administrative law framework of the Organization should allow all levels of United Nations staff to obtain due process, regardless of their location, grade or contractual arrangement;

7. *Appreciates* the efforts made by staff volunteering their services in the system of justice of the United Nations, and stresses the need to provide them with further training;

8. *Takes note with interest* of the option described in paragraph 30 of the report of the Secretary-General,[1] and requests the Secretary-General to explore the implications of this option and report thereon in the context of his annual report on the administration of justice in the Secretariat;

9. *Affirms* that the functions of staff members selected to serve under the new system are official in nature, and requests the Secretary-General to ensure that those staff members are given sufficient time off from their substantive responsibilities to perform their functions;

10. *Recognizes* that the administration of justice system, being heavily dependent on volunteers, requires frequent and comprehensive training of participants, and calls upon the Secretary-General to organize periodic training at each of the headquarters duty stations for all staff involved in the system of administration of justice;

11. *Stresses* the importance of the proper implementation of a sound performance appraisal system as a potential means of avoiding conflict;

12. *Also stresses* the need to provide training in managerial skills to improve managers' conflict resolution skills;

13. *Further stresses* the need to link managers' ability to respond in the course of a proceeding with their own individual performance appraisal;

14. *Notes* that staff rule 112.3, relating to the financial liability of managers, has yet to be implemented, further notes the issuance of administrative instruction ST/SGB/2004/14, and requests the Secretary-General to report on its implementation to the General Assembly at its sixty-first session;

15. *Requests* the Secretary-General to expeditiously implement the recommendations of the Office of Internal Oversight Services, subject to the provisions of the present resolution;

16. *Decides* that the time limits recommended by the Office of Internal Oversight Services will be mandatory within the appeals process once adequate capacity is in place, and no later than 1 January 2006;

17. *Also decides* that measures should be taken to eliminate the appearance of conflict of interest, and towards this end requests the Secretary-General to proceed with the transfer of the responsibility for formulating decisions on appeals from the Department of Management to the Office of the Secretary-General;

II
The informal mechanism of administration of justice

Ombudsman

18. *Stresses* the importance of the Office of the Ombudsman as the primary means of informal dispute resolution, and reaffirms General Assembly resolution 56/253 of 24 December 2001 on the establishment of the Office;

19. *Requests* that the Office of the Ombudsman continue and expand its outreach activities, in particular to local, national and General Service staff, in order to facilitate equal access and awareness-raising, bearing in mind the structure, activities and operational environment of the Organization;

20. *Requests* the Secretary-General to submit proposals for strengthening the office of the Ombudsman through improved access to it for staff serving in different locations;

21. *Invites* the Office of the Ombudsman to reduce all possible delays in responding to the requests of staff in order to ensure that staff are encouraged to seek resolution of conflict in an informal way;

22. *Requests* the Secretary-General to submit, in the context of his annual report on the administration of justice in the Secretariat, information on the activities of the Ombudsman, including general statistical information and information on trends and comments on policies, procedures and practices that have come to the attention of the Ombudsman;

III
The formal mechanisms of administration of justice

Panel of Counsel

23. *Takes note* of the role of the Coordinator of the Panel of Counsel, in preliminary consultations before initiation of the formal appeals process, to support an informal resolution at an early stage;

24. *Stresses* the role of staff representatives in advising and assisting staff in addressing issues informally and formally;

25. *Recognizes* the need to strengthen the capacities of the Panels of Counsel by increasing the opportunity for training on the United Nations Staff Rules and Regulations, policies, procedures or precedents for staff serving on the Panels, in view of the urgent need to strengthen legal advice and administrative support for staff members submitting an appeal;

26. *Invites* staff representatives to explore the possibility of establishing a staff-funded scheme in the Organization that provides legal advice and support to the staff; staff representatives may consult with the Secretary-General as they deem appropriate;

27. *Invites* the Secretary-General to consider appropriate incentives to be built into the system to encourage staff members to serve on the Panels;

28. *Encourages* the Panel of Counsel to increase outreach activities, and requests the Secretary-General to consider the inclusion of travel costs in section 28

A, Office of the Under-Secretary-General for Management, of the proposed programme budget for the biennium 2006-2007 for this purpose;

Administrative Law Unit

29. *Notes* that the Administrative Law Unit has the multiple functions of administrative review, appeals, disciplinary matters and advisory services;

30. *Requests* the Secretary-General to present proposals to separate the above-mentioned functions, through the redeployment of resources, in order to avoid conflicts of interest and to report thereon by the end of the fifty-ninth session, taking into account the following needs:

(a) To ensure the necessary means to collect evidence;

(b) To advise both the appellant and the respondent;

(c) To ensure the uniform application of administrative decisions;

(d) To ensure appropriate consultation with the Office of Human Resources Management and legal experts;

(e) To relay all necessary information to the Office of Human Resources Management;

31. *Stresses* that increased accountability by managers would contribute to the elimination of the backlog of appeals cases, as stated in the report of the Secretary-General,[16] and decides that as a means to facilitate early consideration of cases, the following procedures should be adopted:

(a) Staff members wishing to appeal an administrative decision should send a copy of their request to the executive head of their department;

(b) The Administrative Law Unit should clarify with managers the requirements for the respondent's reply and the contributions expected from managers, as well as time limits;

32. *Also requests* the Secretary-General to ensure that written explanations by managers to the Administrative Law Unit are submitted within eight weeks with no possibility of extension, and decides that compliance with this responsibility shall constitute part of the performance appraisal of managers;

33. *Decides* to amend staff rule 111.2 (a) to provide that staff wishing to appeal an administrative decision shall submit to the executive head of their department, office, fund or programme a copy of the letter addressed to the Secretary-General requesting a review of the case;

Joint Appeals Board

34. *Stresses* the particular importance of providing adequate training to the members of the Joint Appeals Board;

[16] A/59/449, para. 27.

United Nations Administrative Tribunal

35. *Recalls* paragraph 5 of its resolution 57/307, and regrets that the steps necessary to separate the secretariat of the United Nations Administrative Tribunal from the Office of Legal Affairs were not undertaken;

36. *Endorses* the proposal of the Secretary-General to transfer the resources of the United Nations Administrative Tribunal from section 8, Legal affairs, of the proposed programme budget to section 1, Overall policy-making, direction and coordination, effective from the beginning of the biennium 2006-2007;

37. *Reaffirms* paragraph 5 of its resolution 57/307, and requests the Secretary-General to guarantee the immediate independence of the United Nations Administrative Tribunal, including through ensuring the provision of administrative and logistical services that are exclusive to the secretariat of the United Nations Administrative Tribunal;

38. *Recalls* the recent amendment to the statute of the United Nations Administrative Tribunal, which provides that members shall possess judicial or other relevant legal experience in the field of administrative law or its equivalent within the member's national jurisdiction;

39. *Acknowledges* the need for the further strengthening of professionalism in the United Nations Administrative Tribunal by increasing membership of professional judges;

40. *Decides* to amend article 3, paragraph 1, of the statute of the Tribunal, with effect from 1 January 2006, to read:

> "The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess judicial experience in the field of administrative law or its equivalent within their national jurisdiction. Only three members shall sit in any particular case";

41. *Also decides* that the amendment to article 3 will be applied to the election of new members of the Tribunal with effect from 1 January 2006;

42. *Requests* the Secretary-General to submit proposals on compensation for the members of the United Nations Administrative Tribunal once all its members meet the criteria set out in article 3 of the statute as amended in the present resolution;

43. *Notes* that the vast majority of appeals against administrative decisions concern termination of employment or non-renewal of employment contracts, and decides, with reference to recommendation 5 of the Office of Internal Oversight Services,[17] to revert to the question of amendment of article 7 of the statute of the United Nations Administrative Tribunal following receipt of the report of the panel as described in section IV of the present resolution;

44. *Also notes* the report of the Joint Inspection Unit on administration of justice;[18]

[17] See A/59/408, para. 65.

[18] See A/59/280 and Corr.1.

45. *Stresses* the importance of the eventual harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal;

46. *Requests* the United Nations Administrative Tribunal to review the rules, practices and procedures of similar tribunals with a view towards enhanced effective management of caseloads;

IV
Review of the internal justice system

47. *Decides* that the Secretary-General shall form a panel of external and independent experts to consider redesigning the administration of justice system;

48. *Also decides* that the panel shall be composed of a pre-eminent judge or former judge with administrative law experience, an expert on alternative dispute resolution methods, a leading legal academic in international law, a person with senior management and administrative experience in an international organization and a person with United Nations field experience;

49. *Further decides* that the terms of reference of the redesign panel shall be as follows:

(a) The redesign panel shall propose a model for a new system for resolving staff grievances in the United Nations that is independent, transparent, effective, efficient and adequately resourced and that ensures managerial accountability; the model should involve guiding principles and procedures that clearly articulate the participation of staff and management within reasonable time frames and time limits;

(b) The redesign panel shall:

(i) Consider the relevant resolutions of the General Assembly;

(ii) Receive and review information from all the relevant stakeholders regarding existing mechanisms for the administration of justice in the Organization;

(iii) Consult with United Nations staff, including individual staff members, the Staff Union and managers, in order to form an opinion as to how and why some aspects of the system function effectively while other aspects do not;

(c) The redesign panel shall, in particular:

(i) Consider alternative systems for resolving staff grievances by considering other models of organizational dispute resolution, while acknowledging the uniqueness of the United Nations system, in particular the immunity of United Nations staff from national laws and thus the lack of recourse to national courts;

(ii) In proposing a model, consider the value of creating an effective system for handling staff complaints that involves alternative forms of dispute resolution by which cases can be settled by mutual consent, such as mediation, conciliation, arbitration and/or an ombudsman;

(iii) Consider the peer review

(iv) Identify proactive measures such as education and training, that the United Nations can implement to minimize the number of disputes that arise;

(v) Examine the functioning of the Office of the Ombudsman and, if needed, present models to provide services tailored to responding to the needs of the Organization;

(vi) Examine and develop the criteria to be used in the categorization of cases;

(vii) Review the functioning of the United Nations Administrative Tribunal and examine the further harmonization of its statute and that of the International Labour Organization Administrative Tribunal with a view to further professionalizing the United Nations Administrative Tribunal;

(viii) Examine the possibility of an integrated judicial system with a two-layer structure of first and second instance, taking into account existing structures;

(ix) Examine the legal representation of the Secretary-General in the administration of justice system;

50. *Decides* that the panel shall start its functions no later than 1 February 2006 and shall present its findings and recommendations by the end of July 2006;

51. *Requests* the Secretary-General to transmit the report and recommendations of the panel to the General Assembly as a matter of priority;

52. *Also requests* the Secretary-General to submit his comments on the recommendations contained in the panel's report, along with the estimate of time and resources needed for their implementation, to the General Assembly at the first part of its resumed sixty-first session;

53. *Decides* that activities requested above that would give rise to additional resource requirements during the biennium 2004-2005 should be included in the proposed programme budget for the biennium 2006-2007.

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Programme budget for the biennium 2004-2005

Human resources management

Report of the Fifth Committee

Rapporteur: Mrs. Denisa **Hutanova** (Slovakia)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the items entitled "Programme budget for the biennium 2004-2005" and "Human resources management" and to allocate them to the Fifth Committee.

2. At the 40th meeting, on 24 March, questions were raised by the representative of Egypt relating to section XI of General Assembly resolution 59/276 of 23 December 2004 and on the implementation of paragraph 5 of section II of resolution 59/266 of 23 December 2004. Discussions on the matter ensued at the Committee's 41st to 43rd meetings, on 30 March and 1 and 6 April 2005. The statements and observations made in the course of the Committee's deliberations are reflected in the relevant summary records (A/C.5/59/SR.40-43).

II. Consideration of draft decision A/C.5/59/L.47

3. At the 43rd meeting, on 6 April, on the basis of informal consultations, the Chairman of the Committee orally introduced a draft decision entitled "Recruitment", which was subsequently issued as document A/C.5/59/L.47.

4. Before the adoption of the draft decision, the Acting Deputy to the Under-Secretary-General for Safety and Security made a statement (see A/C.5/59/SR.43).

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5. At the same meeting, the representative of Jamaica (on behalf of the States Members of the United Nations that are members of the Group of 77 and China) made a statement (see A/C.5/59/SR.43).

6. Also at the same meeting, the Committee adopted draft decision A/C.5/59/L.47 without a vote (see para. 8).

7. After the adoption of the draft decision, statements were made by the representatives of Norway, Cuba, Costa Rica, India, Mexico and Argentina.

III. Recommendation of the Fifth Committee

8. The Fifth Committee recommends to the General Assembly the adoption of the following draft decision:

Recruitment

The General Assembly

(a) Decides, in view of the fact that printed copies of vacancy announcements were not distributed to delegations as required by paragraph 5 of section II of General Assembly resolution 59/266 of 23 December 2004 with respect to the establishment, in accordance with section XI of resolution 59/276 of 23 December 2004, of the Department of Safety and Security, that the D-2 post of Deputy to the Under-Secretary-General, the D-2 post of Director of the Division of Regional Operations, the D-2 post of Director of the Division of Safety and Security Services and the D-1 post of Executive Officer should, on an exceptional basis, be re-advertised for thirty days, while the process continues with respect to recruitment actions already under way;

(b) Also decides that in respect of the fourteen P-3 to P-5 posts in the Department of Safety and Security for which vacancy announcements were issued between 3 and 31 March 2005 in Galaxy but not distributed in printed form, the deadline for receipt of applications shall be extended by fifteen days, on an exceptional basis;

(c) Requests the Secretary-General to comply fully with the provisions of paragraph 5 of section II of resolution 59/266.